

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	
	:	<b>CONSENT PRELIMINARY ORDER</b>
- v. -	:	<b>OF FORFEITURE AS TO</b>
	:	<b><u>SUBSTITUTE ASSETS</u></b>
RAPHAEL MARTINEZ,	:	
	:	S2 22 Cr. 251 (LJL)
Defendant.	:	
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WHEREAS, on or about March 23, 2023, RAFAEL MARTINEZ (the “Defendant”) was charged in a one-count superseding Information, S2 22 Cr. 251 (LJL) (the “Information”), with conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 371 (“Count One”);

WHEREAS, on or about March 23, 2023, the Defendant pled guilty to Count One of the Information, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegations with respect to Count One of the Information and agreed to forfeit to the United States, a sum of money equal to \$43,630,703.73 in United States currency, and all right, title, and interest of the Defendant in certain property (the “Specific Property”);

WHEREAS, on or about March 24, 2023, the Court entered a Preliminary Order of Forfeiture (the “Order of Forfeiture”), imposing a money judgment against the Defendant in the amount of \$43,630,703.73 (the “Money Judgment”), representing the amount of proceeds traceable to the offense charged in Count One of the Information that the Defendant personally obtained and forfeiting all right, title, and interest of the Defendant in the Specific Property;

WHEREAS, to date, the entire Money Judgment entered against the Defendant remains unpaid;

WHEREAS, as a result of acts and omissions of the Defendant, the United States has not been able to locate, obtain or collect assets traceable to the proceeds of the Defendant's offense, despite the exercise of due diligence in investigating the assets of the Defendant;

WHEREAS, the Government has identified the following specific assets in which the Defendant has an ownership interest:

- a) Any and all funds on deposit in Citibank Account No.: 9346614051 held in the name of MBE Capital Partners LLC;

(the "Substitute Asset"); and

WHEREAS, the Defendant consents to the forfeiture of all of his right, title and interest in the Substitute Asset.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorneys, Katherine Reilly, Micah F. Fergenson, and Steven J. Kochevar, of counsel, and the Defendant, and his counsel, Randall Jackson, Telemachus Kasulis, and Michael Schacter, Esq. that:

1. All of the Defendant's right, title and interest in the Substitute Asset is hereby forfeited to the United States of America, for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853(n).

2. Upon entry of this Consent Preliminary Order of Forfeiture of Substitute Assets, the United States Treasury (or its designee) is hereby authorized to take possession of the Substitute Asset and to keep it in its secure, custody and control.

3. Upon entry of a Final Order of Forfeiture, the Substitute Asset shall be applied towards the satisfaction of the Money Judgment entered against the Defendant.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, the United States shall publish for at least thirty (30) consecutive days on the official government internet forfeiture site, [www.forfeiture.gov](http://www.forfeiture.gov), notice of this Consent Preliminary Order of Forfeiture as to Substitute Asset and provide notice that any person, other than the Defendant in this case, claiming an interest in the Substitute Asset must file a petition within sixty (60) days from the first day of publication of the notice on this official government internet site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The notice referenced in the preceding paragraph shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Substitute Asset, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest in the Substitute Asset and any additional facts supporting the petitioner's claim and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. The United States may also, to the extent practicable, provide direct written notice to any person, other than the defendant, known to have an alleged interest in the Substitute Asset, as a substitute for published notice as to those persons so notified.


7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Substitute Asset, pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

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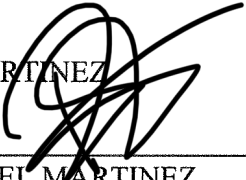
8. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture as to Substitute Assets, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

AGREED AND CONSENTED TO:

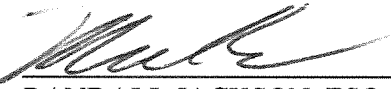
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6-8-23  
DATE


RAPHAEL MARTINEZ  
By:   
RAPHAEL MARTINEZ

DATE

By:   
RANDALL JACKSON, ESQ.  
MICHAEL SCHACTER, ESQ.  
TELEMACHUS KASULIS, ESQ.  
Attorneys for Defendant

6/6/23  
DATE

SO ORDERED:

  
HONORABLE LEWIS J. LIMAN  
UNITED STATES DISTRICT JUDGE

6/9/2023